

**COUNTY OF SAN DIEGO, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Subject**

Rights-of-Way Over, Under, Along or Through County or District Real Property

**Policy  
Number**

I-81

**Page**

1 of 2

**Purpose**

To provide a written policy establishing guidelines for the encumbrance of County or District Real Property.

**Background**

Public and private utility companies, municipalities, special districts, etc., have occasionally been granted rights-of-way (primarily easements) for utility lines, pipelines, polelines, roads, etc., where no apparent benefit accrued to the public ownership, thereby, creating an encumbrance on the land. Such conveyances were perhaps granted on the general theory that cooperation between public and quasi-public bodies was beneficial and on the sometimes erroneous assumption that there was no damage to the properties so encumbered. Some conveyances granted contain provisions requiring the easement user to pay relocation expenses, should the fee owner (public ownership) later find the easement incompatible. Other conveyances, however, provide that any relocation will be at the sole expense of the public ownership. In this instance, the public ownership may be denied the highest and best use of its property and required to spend considerable money to protect improvements in place or relocate a conflicting utility line, pipeline, poleline, road, etc. Unless the public ownership receives benefit from the proposed utility right-of-way, there is no valid reason or accepting such encumbrances.

Additionally, requests for road or other right-of-way over public ownership are routinely received. Generally, these requests are for access required to develop adjacent property. Private users are not always aware that by law, public ownership must be declared surplus before it can be conveyed to private users. Therefore, their requests cannot be accommodated, unless the property is surplus to County's needs. Then, it can be sold by applicable laws either to the highest bidder or, in the case of substandard parcels, to the adjacent property owner.

**Policy**

It is the policy of the Board of Supervisors that:

1. Rights-of-way for utility purposes may be granted when there is benefit to the public ownership so encumbered and in no event will the public ownership be responsible for the maintenance, repair, replacement, removal of the improvements from the right-of-way.
2. Rights-of-way for road or other purposes will not be granted, except when the Board of Supervisors has elected to participate as a land owner with adjacent owners in a public improvement such as a 1911 Improvement Act project or when there is benefit to the public ownership so encumbered.

**COUNTY OF SAN DIEGO, CALIFORNIA**  
**BOARD OF SUPERVISORS POLICY**

**Subject**

Rights-of-Way Over, Under, Along or Through County or District Real Property

**Policy  
Number**

I-81

**Page**

2 of 2

**Procedure**

All requests for rights-of-way for utility or other purposes shall be directed to the Deputy Director, Real Property Division, Department of General Services, and screened for their benefit to the public ownership. Rights-of-way in accordance with this policy will be processed for approval by the Director of General Services pursuant to Government Code Section 25526.6, and Ordinance No. 7206 (New Series), which authorizes the Director of General Services to grant or otherwise convey rights-of-way.

Rights-of-way, whose main purpose is to serve County facilities, will be processed and granted with the County absorbing all costs related to the transaction.

Rights-of-way which are beneficial to the County property being encumbered, but whose main purpose is to serve a non-County property, shall be appraised to determine the fair market value. These rights-of-way shall be sold at fair market value and all staff costs to prepare and process the documents, shall be paid by the requestor in accordance with Board Policy B-29 pertaining to full cost recovery.

Licenses and permits, including but not limited to those issued pursuant to Sections 398.14, 448.7(a) and 455 of the Administrative Code, are exempt from this policy.

**Sunset Date**

This policy will be reviewed for continuance by 12-31-03.

**Board Action**

7-1-80(13)

12-15-87(42)

6-15-93(41)

12-8-98(53)

**CAO Reference**

1. Department of General Services

2. Department of Public Works